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8 April 1966

OAS AND THE USE OF MILITARY FORCES

By

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Colonel, Judge Advocate General's Corps



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OAS and the Use of Military Forces

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US Army War College
Carlisle Barracks, Pennsylvania
8 April 1966

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SUMMARY

The disorders in the Dominican Republic in the spring of 1965 which led to United States intervention and the creation of the Inter-American Peace Force by the Organization of American States have focused attention on the problems of Communist inspired domestic disorders and the role which the OAS might play in the preservation of peace and security in the hemisphere.

Legal limitations restrict the use of force by international organizations as well as by states. However, Korea, Suez, and the Dominican Republic have demonstrated that international organizations must possess the capability of employing armed forces in emergencies.

The thesis considers the unifying and divisive factors in this hemisphere and traces the development of hemispheric cooperation which led ultimately to the establishment of the Organization of American States as a regional agency within the United Nations.

The limitations on the employment of force and the role of international organizations in the preservation of peace and security are examined. The manner in which the United Nations created military forces for the Korean War in 1950 is contrasted with the procedures used in 1956 in connection with the Suez crisis.

The recent situation in the Dominican Republic is discussed. The creation of the Inter-American Peace Force is described and the role of the United States, the Organization of American States, and the United Nations are analyzed. The United States view of the relative jurisdiction of the United Nations and regional organizations over incidents which threaten peace and security is presented.

The thesis concludes that Communist inspired insurgency constitutes the greatest threat to states of the hemisphere in the foreseeable future and urges the creation of a standby peacekeeping force by the Organization of American States. Suggestions are offered to make the concept of a peacekeeping force more acceptable to our Latin neighbors.

CHAPTER 1

INTRODUCTION

On 28 April 1965 President Lyndon B. Johnson electrified the nation and the world with the dramatic announcement that he had ordered United States Marines into the Dominican Republic "to give protection to hundreds of Americans who are still in the Dominican Republic."¹ As the Marines went ashore the shock waves split the world along unfamiliar lines. The United States action and intentions were denounced not only by the Communist states but by states throughout the Free World including Latin America. As the refugees departed and the United States buildup continued, it became increasingly clear that the prevention of a Communist takeover was an important United States objective.²

Large segments of the United States press were highly critical.³ Influential senators, including J. William Fulbright, Chairman of the powerful Senate Foreign Relations Committee, expressed disapproval.⁴ Americans questioned whether the United States action was hasty and ill advised.

¹US Dept of State, Bureau of Public Affairs Pub. 7971, The Dominican Crisis . . . the Hemisphere Acts, 1965, (pages unnumbered).

²Ellsworth Bunker, Department of State Bulletin, Vol. 52, 7 Jun. 1965, p. 908.

³"Dominican Sequel," New York Times, 4 May 1965, p. 42.

⁴J. William Fulbright, "Prospects for Peace With Freedom," Congressional Record, Vol. 111, 1 Jul. 1965, p. 14909.

Most shattering was the impact the United States action produced upon the Organization of American States. The colossus of the North had again intervened in the internal affairs of a weak Caribbean state. Was this a return to "gunboat diplomacy" or would this historic event serve to rouse the OAS from its lethargy to produce a new era of hemispheric solidarity?

United States Secretary of State Dean Rusk urged the OAS to prepare to cope with future events of that type when he stated on 8 May 1965:⁵

* * * the pace of events in this case does indicate that the OAS should consider standby forces and political arrangements that would enable that organization to make decisions and to take action in any future emergency with a speed required by the course of events.

Secretary Rusk's statement places in sharp focus the issue of the desirability and feasibility of creating a standby peacekeeping force for the hemisphere.

This thesis presents a study of the evolution of the Organization of American States and evaluates the use of military forces by that Organization.

⁵US Dept of State, Bureau of Public Affairs Pub. 7971, The Dominican Crisis . . . the Hemisphere Acts, 1965. (pages unnumbered)

CHAPTER 2

ORGANIZING THE AMERICAN STATES

The states of the Western Hemisphere have much in common. They were settled by peoples from Europe at about the same time and after a period of colonial development, won independence in the late 18th and early 19th Centuries. Democracy, liberty, and peace are accepted as common ideals. The Hispanic American nations adopted the democratic-republican form of government patterned after the United States, and like the United States, sought to isolate themselves from European rivalries and disputes.

Despite these similarities there was scant community of interest. The states of the new world were more interested in themselves than in each other. Simon Bolivar, the Great Liberator, envisioned international union or cooperation in the hemisphere but died a disillusioned man.

In 1823 United States President James Monroe proclaimed what was to become known as the Monroe Doctrine.¹ This remarkable Doctrine served to protect the newly independent states from reconquest by European colonial powers. This mantle of protection lessened the need for hemispheric solidarity, permitted some Latin American governments to act in an irresponsible manner with respect to debts and the treatment of foreign nationals, and on occasion led to United States intervention.

¹John B. Moore, A Digest of International Law, Vol. VI, 1906, p. 401.

A series of Spanish-American Congresses were held without any notable successes during the early and middle years of the last century. The Panama Congress of 1826 at Panama City, Panama, considered peace and security, federal union for Latin America, and slavery. Several agreements were signed but they did not become effective as they were not ratified by all signatories. The Congress of Lima, Peru, in 1847-1848 considered defensive measures to prevent Spanish reconquest. Three treaties were signed but none was ratified. The Continental Congress at Santiago, Chile, in 1856 produced a mutual assistance treaty between Chile, Ecuador, and Peru providing for united action if one of the signatories was attacked by the United States. A treaty of "Union and Alliance" was signed at the Congress of Lima held in 1864-1865 but was not ratified.²

United States Secretary of State James G. Blaine must be credited with the first successful efforts to achieve a degree of organization and cooperation in the Western Hemisphere. Increased economic penetration of Latin America by European nations and the War of the Pacific pitting Chile against Peru and Bolivia, which erupted in 1879, raised fears of European intervention. Secretary Blaine responded by urging economic cooperation and methods for the peaceful settlement of disputes. In 1884 the United States Congress authorized a commission to ascertain means of fostering

²US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 204.

international and commercial relations with Latin America.

Following receipt of a favorable report from the commission, the Congress, in 1888, authorized the President to convene a conference in Washington.³

All of the independent Latin American nations, with the exception of the Dominican Republic, were represented at the conference which convened 1 October 1889 and ended 18 April 1890. A wide variety of subjects including the promotion of peace; protection of copyrights and patents; the extradition of criminals; the arbitration of disputes; and the adoption of a common silver coin were considered. As a result, a variety of recommendations, not binding upon the nations, were made. Although many of the lofty aims of the conference have not been achieved to date, the conference did establish the International Union of American Republics, the first truly inter-American cooperative enterprise.⁴

This union was extremely weak and its powers were limited to the prompt collection and distribution of commercial information. The organ of the union, the Commercial Bureau of the American Republics, was located in Washington and was supervised by the United States Secretary of State. Its principal activity appears to have been the publication of commercial and trade information.

³US, Statutes at Large, Vol. 25, 1888, p. 155.

⁴US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 196.

Additional conferences were held at Mexico City (1901-02), at Rio de Janeiro (1906), and at Buenos Aires (1910).⁵ To develop inter-American solidarity, treaties and resolutions were drafted on a wide variety of subjects although the success achieved was almost invariably in the economic and social areas. Important political matters concerning territorial integrity, independence, juridical equality, the rights and obligations of states, the maintenance of peace, and the creation of an enforcement agency were generally excluded from the agenda of the conference.

The chief obstacle to greater cooperation and the formation of a stronger organization was the issue of intervention. Latin American states feared that they would become virtual United States protectorates. The United States felt responsible for maintaining peace and stability in the hemisphere.

Former United States Ambassador to the Organization of American States, John C. Dreier, has written:⁶

Intense interest and much controversy centered on the principle of nonintervention. It became clear that, so long as the United States refused to accept a rule that would prohibit it from intervening under any circumstances in the internal affairs of the other American republics, there would be no peace in the Pan American family.

In support of the United States position Dreier stated:⁷

⁵Ibid.

⁶John C. Dreier, The Organization of American States and the Hemisphere Crisis, 1962, p. 21.

⁷Ibid.

Yet the US view on intervention, although opposed by many leading Latin American jurists, had a strong basis in international law at that time. In most cases, moreover, strong reason for intervention existed: governments had ceased to exercise control; law and order had disappeared; constitutions had been violated; property had been seized without compensation; foreigners, as well as nationals, had been subject to, or threatened with, violence and denied proper protection.

New international relationships developed after World War I. The League of Nations was created and with the notable exception of the United States, most nations in this hemisphere joined the League. The Covenant of the League expressly recognized the Monroe Doctrine and by implication limited the authority of the League in American affairs.⁸

Did this create conditions favorable for the conversion of the Union into a regional League of Nations? Many Caribbean and Central American states were of that view at the Fifth Conference of American Republics which convened at Santiago, Chile, on 25 March 1923. The United States, however, had begun a period of extreme isolation and except for a slight reorganization in the Pan American Union, proposals for strengthening the Union and increasing cooperation were deferred to permit further study.⁹

The key issue continued to be intervention. The Latin American states sought to share in the application of the Monroe Doctrine.

⁸League of Nations, Covenant, Art. XXI.

⁹US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 196.

United States Secretary of State Charles Evans Hughes announced in 1923: "As the policy embodied in the Monroe Doctrine is distinctly the policy of the United States, the Government of the United States reserves to itself its definition, interpretation and application."¹⁰ To Latin Americans this meant the United States would serve as self-appointed policeman for the hemisphere. They countered by actively advocating nonintervention as a principle of international law in the Americas.

The Sixth Conference of the American States convened in Havana in 1928 while the United States was being subjected to harsh criticism for intervening in Nicaragua. The draft codification of the principle of nonintervention, prepared by the Commission of Jurists the previous year at Rio de Janeiro, was hotly debated. The United States delegation headed by Charles Evans Hughes succeeded in blocking its acceptance. The project was referred back to the Commission of Jurists for additional study.¹¹

Hopes for the principle of nonintervention were not high when the Seventh Conference met in Montevideo in 1933. United States warships had been dispatched to Cuban waters and the Cuban delegate's denouncement of the intervention in his country won the support of many Latin American states. However, an important change in United

¹⁰Charles Evans Hughes, "Observations on the Monroe Doctrine," American Journal of International Law, Vol. 17, 1923, p. 616.

¹¹US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 196.

States foreign policy had taken place. President Franklin D. Roosevelt committed the United States to what was to become known as the Good Neighbor Policy, in other words respect for "the rights of others." United States Secretary of State Cordell Hull voted with the Latin American delegations to accept the Convention on Rights and Duties of States, which included the principle of nonintervention. Although the United States attached a reservation, reserving its rights under international law, assurances were given that the United States would respect the principle of nonintervention.¹²

United States actions reflected this new policy. The Platt Amendment (Treaty of Relations, 22 May 1903) which authorized United States intervention in Cuba was terminated and United States forces were withdrawn from Haiti in 1934.¹³ The right to intervene in Panama was surrendered by a new treaty in 1936.¹⁴ Although the Latin American nations welcomed these actions, their opposition to intervention was so strong that they persisted in their efforts to abrogate any lingering right to intervene by a binding treaty. Their victory was achieved at Buenos Aires in 1936 when the United States adhered without reservation to the Additional Protocol to Non-Intervention:¹⁵

¹²Pan American Union, Treaties and Conventions Signed at the Seventh International Conference of American States, 1934, pp. 78-92.

¹³US, Statutes at Large, Vol. 48, Part 2, 1934, p. 1682.

¹⁴US, Statutes at Large, Vol. 53, Part 3, 1939, p. 1807.

¹⁵US, Statutes at Large, Vol. 51, 1937, p. 41.

The High Contracting Parties declare inadmissible the intervention of any one of them, directly or indirectly and for whatever reason, in the internal or external affairs of any other of the Parties.

The violation of the provisions of this article shall give rise to mutual consultation, with the object of exchanging views and seeking methods of peaceful adjustment.

The principle of nonintervention became the official policy of the American states and prepared the way for an inter-American security system. The recognition of collective responsibility for the maintenance of peace was set forth in the Convention for the Maintenance, Preservation and Reestablishment of Peace which also was adopted at Buenos Aires.¹⁶ The Convention required consultation in the event of war in, or a threat to the peace of, the Americas.

An organ of consultation, the Meeting of American Ministers for Foreign Affairs, was created at the Eighth Conference at Lima, in 1938.¹⁷ A meeting of this body would be held whenever deemed desirable by any one of the American states. This would facilitate the consultation required by the Buenos Aires Convention.

The first meeting took place in Panama in 1939 following the outbreak of World War II. Neutrality was proclaimed and a geographical zone of security was created.¹⁸ The belligerents were

¹⁶US, Statutes at Large, Vol. 51, 1937, p. 15.

¹⁷US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 196.

¹⁸Pan American Union, Report on the Third Meeting of the Ministers of Foreign Affairs, Panama, Sep. 23-Oct. 3, 1939, 1942, pp. 14-16.

officially informed of the terms of the Declaration of Panama, but they chose to ignore it.

The German invasion of Western Europe in 1940 raised fears that territories in the Americas might come under Nazi control through conquest of the mother countries. The Second Meeting of Foreign Ministers, at Havana in 1940, adopted a no-transfer doctrine and increased cooperation in economic and antisubversive activities.¹⁹ The Declaration of Reciprocal Assistance and Cooperation created a mutual defense system which provided that an attack by a non-American state should be considered an aggression against all.²⁰ Such an attack would require consultation to agree upon measures to be taken. The following year (7 December 1941) Japan attacked Pearl Harbor.

Nine American nations, in addition to the United States, declared war on the Axis powers and three others severed diplomatic relations prior to the Third Meeting of Consultation at Rio de Janeiro in January 1942.²¹ The United States advanced the view that the Declaration of Reciprocal Assistance required, as a minimum, the rupture of diplomatic relations with the aggressors. Chile, and particularly Argentina, harbored strong isolationist tendencies and feared that the United States could not defend

¹⁹US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 199.

²⁰Ibid.

²¹Pan American Union, Report on the Third Meeting of the Ministers of Foreign Affairs, Panama, Sep. 23-Oct. 3, 1939, 1942, p. 7.

their coastlines. Furthermore, Argentina had never been a strong supporter of a regional hemispheric system and had continued to maintain close ties with Europe. The most that could be achieved at the Rio meeting was a weak resolution recommending that diplomatic relations with the Axis powers be broken.²² All the nations promptly complied with the resolution except Argentina and Chile.

One year after the Rio Conference, Chile complied with the resolution but despite political and economic pressures, Argentina did not sever relations until 1944. Even then Argentina refused to apply strong measures against the activities of the Axis powers and did not declare war on the Axis powers until 27 March 1945.

Sentiment developed for a Meeting of Foreign Ministers to deal with the Argentine government's Axis sympathies. In October 1944 Argentina requested such a meeting.²³

Mexico offered an acceptable solution when she proposed a meeting of American nations co-operating in the war effort.²⁴ The Governing Board of the Pan American Union rejected the Argentine request for a Meeting of Foreign Ministers²⁵ and the Inter-American Conference on Problems of War and Peace met in Mexico City in February 1945. A resolution was unanimously adopted expressing the

²²US Congress, Senate, Committee on Foreign Relations, United States-Latin American Relations, The Organization of American States, 1960, p. 199.

²³Pan American Union, Inter-American Conference on Problems of War and Peace, Mexico City, Feb. 21 - Mar. 8, 1945, p. 23.

²⁴US Dept of State, Report of the Delegation of the United States of America to the Inter-American Conference on Problems of War and Peace, Publication 2497, p. 2. (1945)

²⁵Ibid., p. 5.

view that Argentina should cooperate with other American nations and orient its policy to achieve incorporation into the United Nations. Argentina complied by signing the final act of the conference, declared war on Germany and Japan, and received diplomatic recognition by the American states.²⁶

The Mexico City conference also considered the Dumbarton Oaks Proposals concerning the organization of the United Nations, drafted by the United States, United Kingdom, the USSR and China, and found them not to their liking. The Latin-Americans desired the equality of states in opposition to the primacy of the Great Powers. They also sought greater autonomy for regional organizations.²⁷

At the United Nations Conference on International Organization, San Francisco, from April to June 1945, the Latin-American nations were unsuccessful in their efforts to block the granting of the veto power to the five permanent members of the Security Council.²⁸ However, their goal of relatively independent regional organizations was largely achieved. Chapter VIII entitled "Regional Arrangements" was included in the United Nations Charter.²⁹

How this development led to the formation of the Organization of American States will be discussed in the next chapter.

²⁶Ibid., pp. 36-38.

²⁷Ibid., pp. 13-15.

²⁸United Nations, Charter, Art. 27 (3).

²⁹Ibid., Art. 52, 53, 54.

CHAPTER 3

THE ORGANIZATION OF AMERICAN STATES

Nations normally have constitutions and international organizations normally have charters which grant and define their powers and functions. Great Britain is a notable exception, being a nation without a formal, written constitution. The Organization of American States functioned without a charter from 1890 until 1948, operating in accordance with a series of conference resolutions. The absence of a charter permits flexibility, growth, and uncertainty. A charter places an organization on a legal footing and facilitates the organization's relations with members, non-members, and other organizations.

With the establishment of the United Nations in 1945 it became necessary to formalize the Organization of American States into a regional organization in accordance with Article 52, of the United Nations Charter. Failure to do so might have led to the absorption of the Inter-American System by the United Nations.

At the 1945 Mexico City meeting three basic instruments were visualized: a treaty of reciprocal assistance; a charter; and a treaty dealing with the pacific settlement of disputes.¹

A formal collective security system was created by the Inter-American Treaty of Reciprocal Assistance (Rio Treaty),² signed at

¹US Dept of State, Report of the Delegation of the United States of America to the Inter-American Conference on Problems of War and Peace, 1945, pp. 16-23.

²US, Statutes at Large, Vol. 62, Part 2, 1948, p. 1681.

the Inter-American Conference for the Maintenance of Continental Peace and Security, which met at Rio de Janeiro from 15 August to 2 September 1947.

The Pan American Union prepared a draft charter which, after some revision, was adopted at the Ninth International Conference of American States at Bogota, Colombia, in 1948. Officially entitled the Charter of the Organization of American States,³ it is frequently called the Charter of Bogota.

The Ninth Conference also adopted the American Treaty on Pacific Settlement,⁴ commonly referred to as the Pact of Bogota, for the prevention and peaceful settlement of disputes in the new world.

These three instruments, the Rio Treaty, the Charter, and the Pact of Bogota, are the basic documents of the Organization of American States. Other agreements and resolutions have created specialized agencies and established their relationship with the Organization of American States.

The OAS is not a super-state nor a federal state. The members of the OAS remain sovereign states. It is the organization of the American community, a loose confederation, which has a legal personality separate and distinct from its members. As provided in the Charter, the OAS is the international organization the American States "have developed to achieve an order of peace and justice, to promote their territorial integrity, and to defend their independence.

³US, Treaties, Vol. 2, 1948, p. 2394.

⁴Organization of American States, Treaty Series, 17.

Within the United Nations, the Organization of American States is a regional agency."⁵

Membership is open to "all American States that ratify the present Charter."⁶ Members may withdraw by giving two years written notice to the Pan American Union.⁷ The Charter is silent on the subject of expulsion and suspension. Although this omission created some difficulty at the Punta del Este meeting of January 1962, a series of resolutions effectively excluded Castro's Cuba from participation in the organization.⁸

The Charter of Bogota recognizes three types of conferences. The Inter-American Conference is the supreme organ,⁹ deciding general action and policy of the organization and determining the structure and functions of its organs. It has the authority to consider any matter relating to friendly relations among the American states. This Conference normally convenes every five years but in actual practice the interval is usually longer.

The Meeting of Consultation of Ministers of Foreign Affairs considers "problems of an urgent nature and of common interest to the American States."¹⁰ It also serves as the Organ of Consultation, under the Rio Treaty, to decide action in the field of security.¹¹

⁵Organization of American States, Charter, Art. 1.

⁶Ibid., Art. 2.

⁷Ibid., Art. 112.

⁸US Dept of State, Bulletin, Vol. 46, 19 Feb. 1962, pp. 278-282.

⁹Organization of American States, Charter, Art. 33.

¹⁰Ibid., Art. 39.

¹¹Ibid.

Specialized Conferences "meet to deal with special technical matters or to develop specific aspects of inter-American cooperation."¹²

The Council of the Organization of American States is composed of one representative of each Member State with the rank of Ambassador.¹³ The Council elects a Chairman and a Vice Chairman annually. Neither Ambassador is eligible for election to either position for the term immediately following.¹⁴

The Council is the permanent executive organ of the OAS exercising broad political and administrative functions. The Council is responsible for the proper discharge by the Pan American Union of the duties assigned to it¹⁵ and serves provisionally as the Organ of Consultation if an armed attack occurs within the territory of an American State.¹⁶ In this connection it is interesting to note that as the Council is located in Washington and as the expense and inconvenience involved in an actual Meeting of Foreign Ministers would be great, the Council occasionally adopts a procedure not specifically authorized by the Charter. The Council convenes provisionally as the Organ of Consultation, calls a Meeting without fixing a time or place, and then proceeds to settle the dispute and cancel the Meeting.

The Council drafts and submits recommendations to Governments and to the Inter-American Conference, concludes agreements or special

¹²Ibid., Art. 93.

¹³Ibid., Art. 48.

¹⁴Ibid., Art. 49.

¹⁵Ibid., Art. 51.

¹⁶Ibid., Art. 52.

arrangements for cooperation with other American organizations,¹⁷ and deals with budgetary matters.¹⁸

The Pan American Union, also located in Washington, is the central and permanent organ of the Organization of American States and the General Secretariat of the Organization.¹⁹

The three basic documents of the OAS establish the framework upon which the peace and security of the hemisphere is to be assured.

Principles of American international law are recognized, or created, including rules regarding the rights and duties of states, equality, sovereignty, recognition and nonrecognition, and the sensitive principle of non-intervention.

This brief description of the OAS should suffice to permit consideration of the role this Organization may play in preserving peace in the hemisphere.

¹⁷Ibid., Art. 53.

¹⁸Ibid., Art. 54.

¹⁹Ibid., Art. 78.

CHAPTER 4

LIMITATIONS ON THE USE OF FORCE

The time when states could employ force without restriction to achieve their objectives has hopefully past. This is not to say that all use of force is prohibited or that restrictions will always be observed. Rather it is intended to emphasize that there are legal limitations on the use of force by individuals, states, and international organizations.

The Members of the League of Nations were bound by the Covenant to submit any dispute likely to lead to a rupture "to arbitration or judicial settlement or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision or the report by the Council."¹ Resort to war against a Member of the League which complied with an award or decision was prohibited.² A Member who resorts to war in contravention of the Covenant "shall ipso facto be deemed to have committed an act of war against all other Members of the League."³

The High Contracting Parties of the Treaty for the Renunciation of War (Kellogg-Briand Peace Pact of 1928) renounced war "as an instrument of national policy in their relations with one another."⁴

¹League of Nations, Covenant, Art. 12.

²Ibid., Art. 13(4).

³Ibid., Art. 16.

⁴Trenwith, 5130.

They also agreed "that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

Of more immediate concern are the provisions of the United Nations Charter⁵ restricting or prohibiting the use of force. Article 2 of the Charter provides in pertinent part:

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

This sweeping restriction on the threat or use of force is subject to two exceptions. The Security Council may, pursuant to Article 42, "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."

The second exception is set forth in Article 51:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

⁵US, Statutes at Large, Vol. 59, Part 2, 1945, p. 1031.

It thus appears that the UN Charter permits the employment of armed forces to support Security Council action (Art. 42) or for self-defense, either individual or collective, if an armed attack occurs (Art. 51). By virtue of the Uniting for Peace Resolution⁶ the General Assembly may, when the Security Council is prevented from taking action because of a veto, recommend United Nations action which could include the use of armed forces.

The United Nations Charter recognizes the important role regional agencies may play in the pacific settlement of disputes. The parties to any dispute which may endanger the maintenance of international peace and security are required to seek a solution by enumerated peaceful means including, inter alia, "resort to regional agencies or arrangements."⁷ The Charter also provides:

The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.⁸

The authority of a regional agency, such as the Organization of American States, to employ armed forces is limited. Collective self-defense would authorize the employment of armed forces "if an armed attack occurs against a Member of the United Nations."⁹ However enforcement action (with an exception which is inapplicable in the

⁶United Nations, Yearbook, 1950, pp. 193-195.

⁷United Nations, Charter, Art. 33(1).

⁸Ibid., Art. 52(2).

⁹Ibid., Art. 51.

Western Hemisphere) cannot "be taken under regional arrangements or by regional agencies without the authorization of the Security Council."¹⁰

The United States position respecting the relationship between the United Nations and regional agencies was stated by United States Representative Adlai E. Stevenson on 22 May 1965 during the Security Council debate on the situation in the Dominican Republic:¹¹

The appropriate relationship between the United Nations and regional organizations such as this one, the OAS, can be summarized in terms I think of six principles.

One, the members of the United Nations pursuant to articles 33 and 52 of the charter should seek to deal with threats to the peace within a geographical region through regional arrangements before coming to the United Nations. This is precisely what the members of the OAS have done in the Dominican case.

Second, regional organizations should not of course take enforcement action without the authorization of the Security Council. But in the Dominican Republic the Organization of American States did not take the kind of action that would require Security Council approval.

Third, action taken by regional organizations must be consistent with the purposes and principles of the United Nations. This is obviously the case with the actions of the OAS in the Dominican Republic case.

Fourth, the Security Council should at all times be kept fully informed of actions undertaken by regional organizations. The OAS is keeping the Security Council

¹⁰Ibid., Art. 53(1).

¹¹US Dept of State, Bulletin, Vol. 52, 14 Jun. 1965, pp. 976-977.

fully informed; witness the report you have just had from Dr. Mora through Mr. Mayobre this afternoon. And the Council has also arranged to keep itself informed through a representative of the Secretary-General.

Fifth, the Security Council has the competence to deal with any situation which might threaten international peace and security. This competence is not at issue here.

But sixth, the Security Council should not seek to duplicate or interfere with action through regional arrangements so long as those actions remain effective and are consistent with our charter. The purposes of the United Nations Charter will hardly be served if two international organizations are seeking to do things in the same place with the same people at the same time.

As a matter of sound practice and the wise use of discretion, the Security Council under present conditions should keep itself fully informed but not undertake any activity, either diplomatic or on the ground, which would hinder the efforts and the responsibilities of the competent organization. It will serve the purposes of the United Nations Charter best if the OAS achieves what it has set out to accomplish, and that is to restore peace and achieve reconciliation so that the Dominican people can develop their own democratic institutions.

On 21 December 1965 the General Assembly adopted a resolution banning interference in the domestic affairs of states.¹² Although the resolution was not specifically directed towards the action taken in the Dominican Republic and is sufficiently broad to include condemnation of Communist subversion, it does constitute an additional limitation on the actions of states and regional agencies.

¹²US Dept of State, Bulletin, Vol. 54, 24 Jan. 1966, p. 128.

The foregoing consideration permits the conclusion that a regional agency, such as the Organization of American States, may employ armed forces if an armed attack occurs against a Member of the United Nations, may take enforcement action with the approval of the Security Council, and may assist in maintaining internal stability when so requested by the legitimate government.

CHAPTER 5

USE OF MILITARY FORCES BY INTERNATIONAL ORGANIZATIONS

A survey of the post World War II employment of military forces by international organizations discloses both similarities and startling differences. When the North Koreans attacked across the 38th parallel on 25 June 1950 several fortuitous circumstances permitted the United Nations to react with an efficiency and singleness of purpose never again achieved. The Soviet Union was boycotting the Security Council because of a dispute concerning the seating of the delegate from Communist China.¹ The United Nations Commission on Korea observed the aggression and cabled the Secretary-General a report which, inter alia, suggested bringing the matter to the attention of the Security Council.² The third circumstance was the fact that the United States had forces and a base of operation in Japan.

The United States submitted a draft resolution on 25 June 1950 requesting that the Council determine that the invasion of the Republic of Korea by armed forces from North Korea constituted a breach of the peace and calling upon the authorities in the North to cease hostilities and withdraw their armed forces to the border.³ Following discussion and some modification the United States

¹United Nations, Yearbook, 1950, p. 52.

²Ibid., p. 221.

³Ibid.

sponsored resolution was adopted by a vote of nine to none, with Yugoslavia abstaining and the USSR absent.⁴

On 27 June 1950 President Truman announced that he had ordered United States air and sea forces to provide cover and support for the troops of South Korea.⁵ A United States sponsored resolution noted that the authorities in North Korea had neither ceased hostilities nor withdrawn their armed forces to the 38th parallel and that urgent military measures were required to restore international peace and security, and recommended that the Members of the United Nations furnish such assistance to the Republic of Korea as might be necessary to repel the armed attack and to restore international peace and security in the area.⁶ This resolution was adopted seven to one (Yugoslavia) with the USSR absent and India and Egypt not participating.⁷

The USSR subsequently cabled the Secretary-General⁸ that the Council's resolution of 27 June 1950 had no legal effect as it had been adopted by only six votes, the seventh being that of the Kuomintang representative who had no legal right to represent China. Furthermore the Charter required the concurring vote of all five permanent members on an important matter, whereas this resolution had been passed in the absence of two permanent members, the USSR

⁴Ibid., p. 222.

⁵Ibid., p. 223.

⁶Ibid.

⁷Ibid.

⁸Ibid., p. 225.

and China. The Communist Bloc supported the Soviet position, Poland charging the United States with intervention in Korea without waiting for consideration of the matter by the legal organs of the United Nations, thus taking unilateral action contrary to the United Nations Charter.⁹ She also alleged the United States was endeavoring to find a legal justification for its aggression through the approval of the United States position by the United Nations.

A joint French-United Kingdom draft resolution recommended that the forces and assistance contributed by the Members pursuant to the Council's resolutions of 25 and 27 June be made available to a unified command under the United States, and requested the United States to designate the commander of such forces.¹⁰ This resolution was adopted on 7 July 1950 with India, Egypt, and Yugoslavia abstaining and the USSR still absent.¹¹ The United States Far East Command issued a communique establishing the United Nations Command. The armed forces of the Republic of Korea and those contributed by the Members of the United Nations were placed under the authority of the Supreme Commander of the United Nations forces.¹²

On 1 August 1950 the Soviet delegate returned to the Security Council to serve as President¹³ and to effectively block further

⁹Ibid.

¹⁰Ibid., p. 230.

¹¹Ibid.

¹²Ibid.

¹³Ibid.

significant Council action on the Korean matter. The United States delegation submitted to the General Assembly what was to be adopted, on 3 November 1950, as the Uniting For Peace Resolution.¹⁴ This resolution provided for a Peace Observation Commission and authorized the Assembly to meet on twenty-four hours' notice on the vote of any seven members of the Security Council, or a majority of the Members of the United Nations, if the Security Council, because of a lack of unanimity among the permanent members, failed to act in any case where there appeared to be a threat to the peace, breach of the peace, or act of aggression. This action circumvented the impasse created by the Soviet veto and would permit General Assembly consideration of matters formerly within the jurisdiction of the Security Council.¹⁵

Late in 1950 Chinese "volunteers" entered the conflict¹⁶ and bitter fighting ensued until hostilities were terminated by an armistice in the summer of 1953.¹⁷

Although the actions taken to repel the North Korean and Chinese aggression were those of the United Nations, it must be emphasized that one Member served as the inspiration, initiator, director, agent, and principal worker, with the United Nations proper playing the passive role of receiving periodic reports.

¹⁴Ibid., p. 188.

¹⁵Ibid., pp. 181-183.

¹⁶Ibid., p. 238,

¹⁷United Nations, Yearbook, 1953, pp. 136-146.

THE SUEZ CRISIS

An entirely different situation was to confront the United Nations in 1956. Egypt had proclaimed the nationalization of the Suez Canal Company on 26 July.¹⁸ Efforts both within and without the United Nations to achieve a settlement were unsuccessful¹⁹ and on 29 October the United States informed the Security Council that armed forces of Israel had penetrated deeply into Egyptian territory in violation of the Armistice Agreement.²⁰ The United Kingdom and France promptly intervened and Egypt sank ships in the canal closing it to navigation.²¹

On 31 October 1956, the Security Council adopted by a vote of seven to two (England, France) with two abstentions (Australia, Belgium) a Yugoslavia sponsored resolution to call an emergency special session of the General Assembly as provided in the United Nations Charter for Peace Resolution.²²

At the first meeting of the General Assembly on 1 November the United States introduced a draft resolution providing, inter alia, for an immediate cease-fire, withdrawal behind the armistice lines, the reopening of the canal, and for the Secretary-General to observe and report on compliance with the resolution to the Security Council

¹⁸United Nations, Yearbook, 1956, p. 19.

¹⁹Ibid., pp. 19-24.

²⁰Ibid., p. 25.

²¹Ibid., p. 27.

²²Ibid., pp. 27-28.

and General Assembly.²³ This resolution was adopted in the early hours of 2 November by a vote of 64 to 5.²⁴

When England, France, and Israel delayed complying with the Assembly resolution, the Soviet Union requested an immediate meeting of the Security Council on 5 November.²⁵ A Soviet draft resolution proposed that unless military action against Egypt was halted, all Members of the United Nations, especially the United States and the USSR, furnish military and other assistance to Egypt.²⁶ Meanwhile on the same day the General Assembly voted to establish a United Nations Command for an emergency international force to secure and supervise the cessation of hostilities.²⁷ Major General E. L. M. Burns, Chief of Staff of the United Nations Truce Supervision Organization, was appointed Commander and authorized to recruit officers immediately.²⁸

The Soviet resolution which would have aligned the United States with the USSR against England and France was soundly defeated²⁹ and a cease-fire had taken effect by 7 November.³⁰

The Secretary-General interpreted the intent of the Assembly in creating an emergency force as follows:³¹

²³Ibid., p. 28.

²⁴Ibid.

²⁵Ibid., p. 30.

²⁶Ibid.

²⁷Ibid., pp. 29-30.

²⁸Ibid., p. 29.

²⁹Ibid., p. 30.

³⁰Ibid., p. 31.

³¹United Nations, Annual Report of the Secretary-General on the Work of the Organization, 15 June 1956-15 June 1957, p. 12.

On the one hand, the independence of the Chief of Command in recruiting officers had been recognized. On the other hand, the principle had been established that the Force should be recruited from Member States other than the permanent members of the Security Council. Analysis of the concept of the United Nations Force also indicated that the Assembly intended that the Force should be of a temporary nature, the length of its assignment being determined by the needs arising out of the present conflict. It was further clear that the General Assembly, in its resolution 1000 (ES-I) of 5 November 1956, by the reference to its resolution 997 (ES-I) of 2 November, had wished to reserve for itself the full determination of the tasks of the Emergency Force, and of the legal basis on which it must function. It followed from its terms of reference that there was no intent in the establishment of the force to influence the military balance in the present conflict and, thereby, the political balance affecting efforts to settle the conflict.

The Secretary-General also recognized "that there was an obvious difference between establishing the Force in order to secure the cessation of hostilities, with a withdrawal of forces, and establishing such a Force with a view to enforcing the withdrawal of forces."³²

An Advisory Committee of seven Members, with the Secretary-General as Chairman, was created by an Assembly resolution of 7 November.³³ The Soviet delegate commented that the Force was created in violation of the Charter and cited Chapter VII as empowering only the Security Council, not the General Assembly, to set up an international armed force.³⁴

³²Ibid.

³³United Nations, Yearbook, 1956, p. 33.

³⁴Ibid.

Twenty-four Member States offered to participate in the Force. The Secretary-General and General Burns consulted and selected troop units from ten States to achieve a balanced composition with a reasonably limited and representative number of participants.³⁵ The Secretary-General reached an understanding with Egypt concerning the presence and functioning of the UNEF.³⁶ The phased withdrawal from the combat area was coordinated and the UNEF took up positions between the combatants.³⁷

The Secretary-General issued "Regulations for the United Nations Emergency Force" which affirmed the international character of the Force as a subsidiary organ of the General Assembly.³⁸ Those Regulations were later to serve as the model in drafting regulations for the Inter-American Armed Force.

In consultation with the Advisory Committee the Secretary-General negotiated arrangements with Egypt concerning the status of the UNEF.³⁹

Unlike the Korean situation the General Assembly recognized that the expenses of the UNEF, other than those assumed voluntarily by individual Governments, were United Nations expenditures. On 21 December the Assembly adopted a resolution which authorized \$10 million to be contributed by the Member States in accordance

³⁵United Nations, Annual Report of the Secretary-General on the Work of the Organization, 15 June 1956-15 June 1957, pp. 15-16.

³⁶Ibid., p. 16.

³⁷Ibid.

³⁸Ibid., p. 17.

³⁹Ibid.

with the ordinary 1957 budget scale of assessments, and appointed a committee to examine the question of apportionment of expenses in excess of \$10 million.⁴⁰

Although the unresolved dispute concerning the refusal of some Members to pay assessments for peacekeeping operations may hamper future Assembly supervised actions, the Suez operation demonstrates the inherent ability of the United Nations to create, on short notice, an effective non-combatant peacekeeping force.

THE DOMINICAN REPUBLIC

On 24 April 1965 bloody violence erupted in Santo Domingo as a military coup toppled the government of Donald Reid Cabral. Former President Juan Bosch announced from exile in Puerto Rico that he would "answer the call" of the revolutionaries. However most senior officers were opposed to the return of Bosch and a junta was formed which pounded rebel positions within the city. The rebels retaliated by issuing arms to the civilian populace and the violence increased.

On 28 April President Johnson ordered United States Marines into the Dominican Republic "to give protection to hundreds of American who are still in the Dominican Republic and to escort them safely back to this country."⁴¹ Similar assistance was

⁴⁰Ibid.

⁴¹US Dept of State, Bureau of Public Affairs Pub. 7971, The Dominican Crisis . . . the Hemisphere Acts, 1965 (pages unnumbered).

offered to nationals of other countries. Two days later the President stated:⁴²

We took this step when, and only when, we were officially notified by police and military officials of the Dominican Republic that they were no longer in a position to guarantee the safety of American and foreign nationals and to preserve law and order.

Why did not the United States consult the Organization of American States before taking unilateral action? The President explained on 2 May, "I thought that we could not and we did not hesitate." Secretary of State Rusk cited the inability of the OAS to cope with such situations:⁴³

As presently organized, the OAS does not have standby forces or the political machinery for the immediate decisions required to deal with such urgent contingencies. As soon as the action was taken, ambassadors to the OAS were informed and a meeting was called to enable the OAS to take jurisdiction.

Although Secretary Rusk's description of the OAS is undoubtedly correct, that Organization had acted decisively at the time of the Cuban Missile Crisis and unilateral United States action in the Dominican Republic created uncertainty as to United States intentions.

The Tenth Meeting of Consultation of the Ministers of Foreign Affairs of the American Republics convened at Washington on 1 May 1965. U. S. Representative Ellsworth Bunker stated in plenary session:⁴⁴

⁴²Ibid.

⁴³Ibid.

⁴⁴Ellsworth Bunker, "OAS Foreign Ministers Provide for Establishment of Inter-American Force in Dominican Republic," Department of State Bulletin, Vol. 52, 31 May 1965, p. 854.

. . .this is not intervention in any sense by the United States in the affairs of the Dominican Republic. United States forces were dispatched purely and solely for humanitarian purposes, for the protection of the lives not only of United States citizens but the lives of citizens of other countries as well.

As the United States military buildup continued in the Dominican Republic, speculation as to United States intentions increased when President Johnson declared, on 2 May, "The American nations cannot, must not, and will not permit the establishment of another Communist government in the Western Hemisphere."⁴⁵ Fears were expressed that the United States was reverting to a policy of intervention and "gunboat diplomacy."⁴⁶

A Special Committee of five Ambassadors created by an OAS resolution of 1 May succeeded in achieving a fragile cease-fire on 5 May which was formalized in the Act of Santo Domingo.⁴⁷ On 6 May the OAS adopted a resolution establishing an Inter-American Force.⁴⁸ This resolution provided in pertinent part:⁴⁹

1. To request governments of member states that are willing and capable of doing so to make contingents of their land, naval, air or police forces available to the Organization of American States. . . .
2. That this Force will have as its sole purpose, in a spirit of democratic impartiality, that of co-operating in the restoration of normal conditions in the Dominican Republic. . . .

⁴⁵US Dept of State, op. cit.

⁴⁶Herbert L. Matthews, "Santo Domingo and Nonintervention," New York Times, 10 May 1965, p. 32.

⁴⁷Dept of State, Bulletin, Vol. 52, 31 May 1965, p. 868.

⁴⁸Ibid., p. 862.

⁴⁹Ibid., pp. 862-863.

3. To request the commanders of the contingents of forces that make up this Force to work out directly among themselves and with a Committee of this Meeting the technical measures necessary to establish a Unified Command of the Organization of American States for the coordinated and effective action of the Inter-American Armed Force. In the composition of this Force, an effort will be made to see that the national contingents shall be progressively equalized.

* * *

5. That the withdrawal of the Inter-American Force from the Dominican Republic shall be determined by this Meeting.

* * *

7. To inform the Security Council of the United Nations of the text of this resolution.

The haste with which the OAS acted is apparent in the Resolution. The Force is variously described as the Inter-American Force and the Inter-American Armed Force. Virtually no guidance is set forth for the non-existent commanders who were to establish the Unified Command. This is in marked contrast to the United Nations which had made the United States its agent during the Korean conflict and had utilized the services of the Secretary-General in organizing the UNEF.

Planning for the creation of the Unified Command began in Santo Domingo on 7 May under the supervision of US Ambassador W. Tapley Bennett, Jr. and Lt General Bruce Palmer, Commander of US Forces in the Dominican Republic. As contingents from other nations arrived, the plans were co-ordinated with their commanders. Although the OAS continued the existence of the Special Committee to permit it to work with the commanders in creating the Unified Command, the Special

Committee returned to Washington and that function was performed by OAS Secretary-General Jose A. Mora.⁵⁰

It was decided to request Brazil to appoint the commander and the United States to appoint the deputy commander of the Inter-American Peace Force.⁵¹ Following approval by the governments concerned, an agreement was signed on 23 May by the commanders representing the United States, Brazil, Costa Rica, Honduras, and Nicaragua, and by Secretary-General Mora for the OAS. As President Johnson stated a few days later:⁵²

For the first time in history the Organization of American States has created and sent to the soil of an American nation an international peacekeeping military force.

That may be the greatest achievement of all.

⁵⁰"Resolution on Mission of OAS Secretary General," Department of State Bulletin, Vol. 52, 7 June 1965, p. 912.

⁵¹"Resolution on Inter-American Force Command," Department of State Bulletin, Vol. 52, 7 June 1965, p. 913.

⁵²US Dept of State, op. cit.

CHAPTER 6

PERMANENT PEACEKEEPING FORCES

The framers of the United Nations Charter were well aware that in this imperfect world situations would develop which would require the use of force to maintain or restore international peace and security. The Members of the U.N. undertook,

to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.¹

A Military Staff Committee was established, "to advise and assist the Security Council's military requirements" and "be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council."²

Unfortunately the "cold war" struggle has prevented adoption of proposals designed to implement these Charter provisions and the unresolved financial difficulties resulting from the Congo operation preclude the establishment of permanent U.N. peacekeeping forces in the foreseeable future.

The prospects for an OAS peacekeeping force should be brighter. The United Nations was organized in a relatively short period of time to capitalize upon the wartime cooperation of the allies. Its

¹United Nations, Charter, Art. 43.

²Ibid., Art. 47.

experience was the experience of the League of Nations. It is based on the concept of Great Power cooperation. This cooperation is now lacking and with the great influx of new nations it is considered unlikely that Charter revisions designed to strengthen the Organization can be adopted.

The situation and history of the OAS is vastly different. The OAS is a flexible Organization which evolved rather than was created. It has somehow managed to survive every crisis and adapted to meet changing conditions. Its membership and aspirations have been substantially the same for seventy-five years, yet structural changes have been common. In its willingness and ability to change can be found its secret of survival.

Communist-inspired insurgency and actions resulting therefrom presently constitutes a most serious challenge to the Organization of American States and its Members. The Communist take-over in Cuba, the Bay of Pigs fiasco, and the Cuban Missile Crisis have been sobering experiences. The full impact of the 1965 revolt in the Dominican Republic has not yet been felt.

One consequence of the Dominican situation was the convening of the Second Special Inter-American Conference at Rio de Janeiro, Brazil on 17 November 1965. Secretary of State Dean Rusk called for improvements in the inter-American system when he addressed the Conference in the following terms:³

³Dean Rusk, "The Common Quest for Freedom and Property in the American Republics," Department of State Bulletin, Vol. 53, 20 Dec. 1965, p. 993.

The ability of the inter-American system to act promptly in times of crises has been reassuring for the future. But is well for us at this stage in our development to take another look at our institutions and our methods in order to see whether we can improve upon them.

This conference should decide how we might best proceed with the consideration of specific improvements in the inter-American system which our deliberations disclose as necessary. It seems to me that the task might be entrusted after this conference to one or more bodies which would carry forward our work in preparation for a special conference, under Article 111 of the Charter, to meet possibly within the next 6 months.

The Secretary then advanced six ideas which could contribute to making the OAS a more effective instrument. The fifth idea gingerly raised the issue of a peacekeeping force.⁴

Fifth, there is the question of joint action. Both in the Cuban missile crisis and in the Dominican situation, the discharge by the OAS of its responsibilities involved not merely the assumption of political responsibility but also the employment of units of the armed forces of various member states. These were contributed voluntarily and operated collectively under a combined command. In the crises of 1962 this action was decisive. In the case of the Dominican Republic, the Inter-American Peace Force made a vital contribution to the avoidance of needless bloodshed and the creation of conditions for the Dominican people to determine their own future by votes and not by arms. Its importance is attested by the fact that the provisional government has called upon it for continued assistance in the maintenance of peace and stability.

The United Nations has, of course, had much more experience than has the OAS in this type of multilateral peacekeeping force. Many of your countries have made personnel available for both United Nations observation

⁴Ibid., pp. 993-994.

and military operations in several crisis situations. It may, therefore, be useful for us to examine, in the light of experience and the nature of our collective responsibilities for peace and security in the hemisphere and elsewhere, the desirability of establishing these voluntary contributions to international peacekeeping operations on a more orderly basis in advance of their possible future use by the OAS or by the U.N.

If we face the fact that we live in troubled times, if we face the fact that there are those who seek with purpose and persistence to destroy democracy, I believe, if we are patient, we shall find a creative way to recognize two important principles: First, we ought to be prepared to move fast and effectively--and, if possible, together--when a dangerous situation arises in the hemisphere; second, none of our governments is prepared to engage its military forces except by national decision, at the highest level, in the light of particular circumstances.

Secretary Rusk's suggestion was preliminary in nature and specific details were not included. His proposal is subject to two possible interpretations. On the one hand the Secretary may have envisioned a permanent force which would have no national affiliation and be completely under the control of the OAS. This view is supported by his statement that "none of our governments is prepared to engage its military forces except by national decision, at the highest level, in the light of particular circumstances." A permanent OAS force would obviate that difficulty.

On the other hand Secretary Rusk may have contemplated standby forces pledged in advance by the Members for use by the OAS. This concept would likely entail a permanent staff but not permanent forces. This interpretation is more in line with his earlier statement of

8 May 1965 "that the OAS should consider standby forces."⁵

Secretary Rusk did not remain for the entire conference and upon his return to the United States he commented:⁶

I found the work of the Rio conference very encouraging. There was a general conviction that the inter-American system is a dynamic one which can and will adjust to changing situations in the hemisphere and in the world. Before I left the conference there was a general consensus among the delegates on certain changes which would make the organization more effective. These changes would include more frequent meetings at the ministerial level, probably annually, to discuss hemispheric problems, strengthening the peacekeeping roles of the Secretary General and the Council of the organization, and giving greater authority to the Economic and Social Council.

Thus the Secretary expressed encouragement on the matter of peacekeeping without commenting upon the nature of the force.

Unfortunately the matter was not specifically discussed at the Conference and no vote was taken thereon. Accordingly no definitive conclusion is possible concerning whether permanent or standby forces were contemplated. This writer feels that permanent forces is too novel a concept to receive acceptance by the OAS in the near future and proceeds on the assumption that standby forces is intended.

Press comments on the Conference were less encouraging as indicated by this New York Times editorial:⁷

⁵US Dept of State, Bureau of Public Affairs, Pub. 7971, The Dominican Crisis--the Hemisphere Acts, (page unnumbered), Oct. 1965.

⁶Dean Rusk, "Secretary Rusk's News Conference of November 26," Department of State Bulletin, Vol. 53, 13 Dec. 1965, p. 930.

⁷New York Times, 2 Dec. 1965, p. 40.

The American hope of getting assent to an inter-American peace force must surely have been given up in advance, since it was clear that there could be no agreement on it. Secretary of State Rusk made a pitch for it in Rio, but he presumably was doing so for the record and to keep the issue open for future consideration.

The hope for future consideration lies in the "Act of Rio de Janeiro" which was adopted by the Conference. This Act recognized "the need for strengthening the structure and more effectively coordinating the activities of the organs of the system." The Act resolved, inter alia, to convoke the Third Special Inter-American Conference at Buenos Aires in July 1966 and

To entrust to a Special Committee, composed of representatives of each of the member states, the preparation of a preliminary draft proposal on amendments to the Charter of the Organization.

The guidelines contained in the "Act of Rio de Janeiro" for the Special Committee make no mention of peacekeeping forces. As they are merely guidelines rather than a specific mandate, it is submitted that the Special Committee is not precluded from considering any Charter amendment designed to accomplish the purpose of the Act, which is to strengthen the Organization.

It is to be expected therefore, that the United States delegate on the Special Committee will propose an amendment authorizing the Organization of American States to create a standby peacekeeping force for the hemisphere.

While it is recognized that the prospects for such an amendment are not bright, some suggestions designed to overcome anticipated objections are offered in the concluding chapter.

CHAPTER 7

CONCLUSIONS AND RECOMMENDATIONS

The OAS Charter provides that "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State."¹

Elsewhere the Charter provides that

The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever.²

However, these sweeping prohibitions are subject to two important exceptions. Firstly, the Charter limits actions by a "State or group of States" but does not rule out similar actions by the OAS. Secondly, the Charter recognizes that "Measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the principles set forth" above.³ Accordingly, it is submitted that collective intervention by the OAS is not prohibited by the Charter.

The creation of an OAS standby peacekeeping force will hinge more on political than on legal considerations. If the concept is accepted politically the drafting of the legal documents will present no great obstacles. However, States which oppose the concept are likely to present their views in the form of legal objections.

¹Organization of American States, Charter, Art. 15.

²Ibid., Art. 17.

³Ibid., Art. 19.

Within the OAS there is no veto and the vote of each State has the same weight as the vote of every other State.⁴ Thus, the sovereignty of each Member is protected. Yet there is the awareness that the strength of one Member exceeds the combined strength of all other Members. The junior partners realize that neither they nor the Organization can either compel or deter United States actions. An OAS peacekeeping force would not be effective against the United States but could be employed effectively against them. They are thus confronted with a difficult choice. Would the creation of a standby peacekeeping force increase or diminish the likelihood of intervention?

It might be argued that the United States would not have intervened unilaterally in the Dominican Republic had the OAS been equipped to deal with the emergency. Thus, the creation of a standby force will assure the Organization a voice in future actions of a similar nature. This contention, however, is likely to have more appeal north of the Rio Grande than below the United States border. With few exceptions, Latin American governments would engender popular support by voicing unalterable opposition to intervention in any form. Government leaders favoring such a force risk leftist inspired demonstrations. Accordingly, the Members of the OAS can be expected to proceed in a most cautious manner.

This confronts United States leaders with the formidable task

⁴Ibid., Art. 6 and Art. 34.

of securing OAS acceptance of the concept of a standby peacekeeping force. While the success of this venture cannot be assured, the following matters are deemed worthy of serious consideration for presentation to the Special Committee created to draft proposals on amendments to the Charter.

Communist-inspired insurgency presently constitutes a greater threat to the security of the hemisphere than the danger of overt, direct aggression. Since the Rio Treaty only protects against the lesser threat, logic demands that action be taken to protect against the newer and greater threat.

The success of the military operation conducted by the Inter-American Peace Force in the Dominican Republic should be effectively utilized to resolve some of the doubts and misunderstandings concerning the employment of peacekeeping forces.

Assurances by the United States that, except to repel an armed attack, we will not act unilaterally in the hemisphere if the OAS creates a viable peacekeeping force, would materially reduce fears of United States intervention.

While there would be some advantages in having a United States commander, it is believed that there would be greater Latin American support for a peacekeeping force if we did not insist that the commander be a United States officer. The experience in the Dominican Republic clearly demonstrates that a Latin American officer can successfully command an international force.

Political guidance could be given to the commander either by an

ad hoc OAS committee or by the Secretary General. In this connection it is noted that Secretary General Jose A. Mora was present in the Dominican Republic during the early stages of that operation, where he was able to observe developments and consult with the commander.

As the United States is the only OAS Member capable of supporting large military forces over considerable distances, it would be logical for the United States to assume the major, if not the exclusive, logistics role. This would insure efficiency and guarantee other important benefits. If the commander and the combat elements of the force are from Latin America, with the United States military contribution being mainly supply, communication, and transportation, the stigma of United States intervention would be removed.

The costs of a peacekeeping operation could be borne by the OAS with the Members contributing in the same proportion as their regular contributions. As a less desirable alternative, costs could be prorated amongst those Members agreeing to share the expenses of a particular operation. In either case, the greater part of the costs would likely be borne by the United States, thus relieving Latin American governments of unexpected strain on their budgets.

Military contingency planning for the employment of the peacekeeping force could be conducted by the Inter-American Defense Board (IADB) which is located in Washington. Although this would have the advantage of incurring few additional expenses, military considerations are likely to be less important than political factors. Accordingly, it would be more efficient to create a civilian-military group charged

with planning all aspects of the employment of the force.

Force Regulations for the internal operation of the force should be approved and promulgated by the OAS at an early date. The Force Regulations presently in effect in the Dominican Republic, which were patterned on the United Nations Emergency Force (UNEF) Regulations, could be utilized with minor modifications.

The question of a Status of Forces Agreement should be avoided. An agreement of this type is not essential to the concept of a standby peacekeeping force. Furthermore, an attempt to draft such an agreement could be a disruptive influence as some governments would seek to subordinate the peacekeeping force to their jurisdiction and control.

If the OAS approves the creation of a peacekeeping force, each Member would be requested to state the size, type, and circumstances under which it would contribute to the force. This information would enable the IADB to draft a contingency plan for each nation which would guarantee prompt action in any emergency.

No mention has as yet been made of what is perhaps the key issue, namely the consent of the nation concerned. As situations may develop in which there is no consensus as to which group is entitled to recognition as the legitimate government, an absolute requirement that a nation must approve the entry of peacekeeping forces could create grave difficulties. Ideally a two-thirds vote of the Council should be sufficient to authorize employment of the peacekeeping force. However, if the Latin American Members insist that the nation

involved must acquiesce, an exception should be made for situations in which a nation is not then represented by a delegate to the OAS.

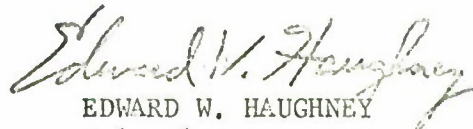
It is, of course, impossible to predict whether the OAS will approve the creation of a standby peacekeeping force; thus, it will be necessary for United States military planners to prepare alternative plans for each potential trouble spot. In the event the OAS approves the creation of a standby peacekeeping force along the lines suggested herein, US military planners must determine what military forces can be made available. When approved by our national leaders, this information should be transmitted to the OAS for detailed study. As each contingency plan is finally approved by the OAS, US military planners can select the US units for deployment in support of each plan.

In the event the OAS rejects the concept of a standby peacekeeping force, US planners should not foreclose the possibility that the OAS may approve the employment of a peacekeeping force in a particular emergency as was done in May 1965. We may assume that the United States will always explore this possibility before taking unilateral action.

Combat as well as combat support units will have to be employed in any unilateral United States action. It should not, however, be necessary for the US to train and equip special units to restore or maintain peace in the hemisphere. The normal, intensified training in counterinsurgency operations should suffice for all but the most highly specialized units. Language proficiency in Spanish, and to a

lesser extent, Portuguese, and French, is desirable but the essential prerequisites will continue to be good intelligence, adequate preparation, rapid response, and a clear appreciation of the political objectives.

The creation of a standby force will demonstrate the firm resolve of the OAS to assume the function of maintaining peace and security in the hemisphere. The mere creation of the force will serve to reduce the occasions when the peacekeeping force will have to be employed.


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ANNEX A

ACT ESTABLISHING INTER-AMERICAN FORCE

WHEREAS

The Tenth Meeting of Consultation of Ministers of Foreign Affairs of the American States requested by resolution of May 6 that governments of member states that are willing and capable of doing so make contingents of their land, naval, air or police forces available to the Organization of American States to form an Inter-American Force that will operate under the authority of the Tenth Meeting of Consultation;

This Force, pursuant to the resolution of May 6, will have as its sole purpose, in a spirit of democratic impartiality, that of cooperating in the restoration of normal conditions in the Dominican Republic, in maintaining the security of its inhabitants and the inviolability of human rights, and in the establishment of an atmosphere of peace and conciliation that will permit the functioning of democratic institutions;

The Meeting of Consultation of Ministers of Foreign Affairs, by resolution of May 22, 1965, has requested the Government of Brazil to designate the Commander and the Government of the United States to designate the Deputy Commander of the IAF.

In accordance with the request of the resolution of May 6, the Commanders of the contingents of forces making up this Force have agreed among themselves and with the duly authorized representative of the Tenth Meeting of Consultation of Ministers of Foreign Affairs of the American States on the technical measures necessary to establish a unified command of the Organization of American States for the coordinated and effective action of the Inter-American Force as follows:

I

1. The Inter-American Force is hereby established as a force of the Organization of American States.
2. The Inter-American Force shall consist of the unified command and the national contingents of member states assigned to it.
3. The Unified command shall consist of the Commander of the Inter-American Force, the Deputy Commander, and the staff.

4. The Commander of the Inter-American Force shall exercise operational control over all elements of the Force. He shall be responsible for the performance of all functions assigned to the Force by the Organization of American States, and for the deployment and assignment of the units of the Force.
5. Members of the Force shall remain in their respective national service. During the period of assignment to the Force they shall, however, serve under the authority of the Organization of American States and subject to the instructions of the Commander through the chain of command. Command of national contingents, less operational control, shall remain vested in the Commander of the respective national contingents.

II

1. The Commander of the Inter-American Force shall keep the Meeting of Consultation currently informed of the activities of the Force.
2. The Inter-American Force, through its Commander, will receive general political guidance from the Meeting of Consultation.
3. The Commander shall issue Force regulations which shall be binding upon all members of the Force.
4. The Commander shall establish a table of organization and designate a chain of command for the Force.
5. The staff of the United Command shall include representatives of each member state contributing forces. Positions on the staff shall be assigned by the Commander with due regard for appropriate representation of the national units making up the Force. A member of the staff shall be appointed by the Commander as full-time Liaison Officer with the duly authorized representative of the Meeting of Consultation.

III

1. In conformance with the resolution of May 22, the Government of the United States of Brazil has designated _____ as the Commander of the Inter-American Force.
2. In conformance with the resolution of May 22, the Government of the United States of America has designated Lt. Gen. Bruce Palmer, Jr. as the Deputy Commander of the Inter-American Force.

Signed and entered into force this 23rd day of May, 1965 at Santo Domingo by the duly authorized representative of the Meeting

of Consultation and the Commanders of all national contingents made available to the Organization of American States and present in the Dominican Republic in accordance with the Resolution of May 6 adopted by the Tenth Meeting of Consultation of the Meeting of Foreign Ministers.

Colonel Carlos de Meira Mattos
For the Government of the United
States of Brazil

Secretary General
Organization of American States
for the
Tenth Meeting of Consultation
of
Ministers of Foreign Affairs
of the American States

Lt. Col. Alvaro Arias
For the Government of Costa Rica

Major Policarpo Paz Garcia
For the Government of Honduras

Col. Julio Gutierrez Ribera
For the Government of Nicaragua

Lt. Gen. Bruce Palmer, Jr.
For the Government of the United
States of America